

BRAE CORPORATION

RECORDATION NO. 10650-S Filed 1025

OCT 13 1982 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

No.
OCT 13 1982
Date
Fee \$ 10.00

ICC Washington, D. C.

October 8, 1982

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
12th & Constitution, Room 2215
Washington, D.C. 20423

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of
49 U.S.C. Section 11303 are two originals and six copies of the follow-
ing document:

Sixth Amendment dated as of October 6, 1982 to the Equipment
Trust Agreement dated as of June 1, 1979 between Morgan
Guaranty Trust Company of New York, as Trustee, and BRAE
Corporation.

This document relates to 1,138 railcars described as follows:

<u>No. of Cars</u>	<u>Car Types</u>	<u>Lessee</u>	<u>Reporting Marks</u>
297	XM	Ashley, Drew & Northern Rail way Company	ADN 9400-9416 9418-9499, 9501 - 9588, 9590 - 9699
292	XP	Ashley, Drew & Northern Rail way Company	ADN 5600-5603, 5605-5675, 5677- 5737, 5739-5750, 5752-5783, 5785- 5796, 5798-5860, 5862-5895, 5897- 5899
50	XM	Delta Valley & Southern Rail way Company	DVS 1001-1050
50	XM	East St. Louis Junction	ESLJ 7700-7750
200	XM	Galveston Wharves	GWF 1001-1200
50	FB	Mississippi & Skuna Valley Railroad	MSV 400-449

99	XM	Oregon, Pacific & Eastern Railway Company	OPE 15101-15123, 15125-15200
50	XM	Part of Tillamook Bay	POTB 101-150
50	XM	Sierra Railroad Company	SERA 5000-5049

The names and addresses of the parties to the transaction evidenced by the document described above are as follows:

TRUSTEE: Morgan Guaranty Trust Company of New York
30 West Broadway
New York, N.Y. 10015

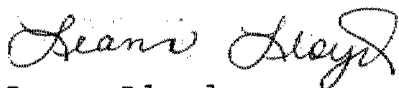
LESSOR: BRAE Corporation
Four Embarcadero Center
San Francisco, CA 94111

It is requested that this document be filed and recorded under the names of the parties as set forth above. In view of the fact that it relates to the Equipment Trust Agreement dated as of June 1, 1979 between Morgan Guaranty Trust Company of New York and BRAE Corporation previously recorded and assigned recordation number 10630, we request that it be assigned the next letter designation under that primary number.

I also enclose a check in the amount of \$10.00 for the required recordation fee.

Please return: (1) your letter acknowledging the filing, (2) a receipt for the \$10.00 filing fee paid by check drawn on this firm, (3) the enclosed copy of this letter and (4) the originals and five copies of the document (retaining one copy for your files) all stamped with your official recordation information.

Very truly yours,



Leann Lloyd
Legal Assistant

/es

cc: Alfred C. Dossa, Esq.
Lawrence W. Briscoe

Interstate Commerce Commission
Washington, D.C. 20423

10/14/82

OFFICE OF THE SECRETARY

Leann Lloyd
Legal Assistant
Brae Corporation
Four Embarcadero Center
San Francisco, Calif. 94111

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/13/82 at 11:30am, and assigned re-recordation number(s). 10630-S

11498-Y

11879-O

11965-Q

12426-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

OCT 13 1982 - 11 30 AM

INTERSTATE COMMERCE COMMISSION

SIXTH AMENDMENT dated as of 10/6/82, 1982 to Equipment Trust Agreement dated as of June 1, 1979, as amended by an Amendment dated as of December 7, 1979, an Amendment Agreement Number Two dated as of December 16, 1979, a Third Amendment dated as of April 15, 1980, a Fourth Amendment dated as of June 1, 1980, and a Fifth Amendment dated as of September 10, 1980, and as supplemented by a Waiver dated as of January 10, 1980, a Waiver dated as of March 1, 1980 and a First Supplement dated as of July 15, 1980 (as so amended and supplemented, the "Equipment Trust Agreement") between MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as trustee (the "Trustee"), and BRAE CORPORATION (the "Company").

R E C I T A L S:

The Company has requested that the Trustee amend the Equipment Trust Agreement as more completely described below. The Trustee has received a Written Direction to execute this Amendment from each of the Original Purchasers, which at the present time collectively hold 100% in principal amount of the outstanding Trust Certificates.

Section 9.03 of the Equipment Trust Agreement provides for amendment of the Equipment Trust Agreement under such circumstances.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

1. The terms used in this Amendment which are defined in the Equipment Trust Agreement have the same meanings herein as specified therein.

2. Section 6.05(a) of the Equipment Trust Agreement is amended by changing the figure \$33,000,000 therein to \$38,000,000.

3. Section 6.05(b) is amended such that clauses (1) and (2) of the definition of "Consolidated Net Earnings Available for Restricted Payments" read as follows:

(1) the sum of (a) \$13,000,000, plus (b) 50% (or minus 100% in the case of a deficit) of Consolidated Net Earnings for the period (taken as one

accounting period) commencing on April 1, 1979, and terminating on the date of the proposed Restricted Payment, less (2) the sum of (a) the aggregate amount of all dividends and other distributions paid or declared by the Company on any class of its stock after March 31, 1979, (b) the aggregate amount of all expenditures made pursuant to clause (vii) of Section 6.05(e) after March 31, 1979, and (c) the excess of the aggregate amount expended, directly or indirectly, after March 31, 1979 for the redemption, purchase or other acquisition of any shares of its stock and for the optional payment of principal of, and the optional retirement, redemption, purchase or other acquisition of, Subordinated Funded Debt, over the aggregate amount received as (x) the net cash proceeds of the shares of its stock after March 31, 1979 and/or (y) the net cash proceeds after March 31, 1979 upon the sale of any Debt security which has been converted into shares of its stock but only if such conversion occurs within five years after the issuance of such Debt security.

4. Section 6.05(b) is amended further by adding a new paragraph which shall be the last paragraph as follows:

The provisions of Section 6.05(b) shall not apply to any redemption, purchase or acquisition, direct or indirect, of any shares of any class of stock of the Company now or hereafter outstanding if within six months of such redemption, purchase or acquisition such shares are used in connection with the acquisition of a Restricted Subsidiary.

5. Section 6.05(e) is amended by deleting the word "and" from the end of clause (iv), inserting a new clause to be numbered (v) which reads as set forth below, inserting a new clause to be numbered (vi) which reads as set forth below, and replacing the existing clause (v) with clause (vii) which reads as set forth below:

(v) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that such investment, purchase, loan, advance, contribution or sale has been designated a Special Restricted Investment by the Company, and further provided that no such Special

Restricted Investment shall be made if on the date such proposed Special Restricted Investment is to be made the sum of all Special Restricted Investments (including the proposed Special Restricted Investment) shall exceed in the aggregate 50% of the sum of (i) current and deferred taxes on income and provision for taxes on unremitted foreign earnings which are included in Gross Revenues minus (ii) taxes paid or payable for the period (taken as one accounting period) commencing on April 1, 1979 and terminating on the date of the proposed Special Restricted Investment,

(vi) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that such investment, purchase, loan, advance, contribution or sale has been designated an Added Equity Restricted Investment by the Company and further provided that the aggregate of such Added Equity Restricted Investments shall not exceed the net cash proceeds received by the Company on or after June 1, 1982 from the sale of its stock and from the sale of any Debt security convertible into stock of the Company, but only to the extent that any such Debt has been converted into shares of the stock of the Company, and

(vii) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that the aggregate amount expended (including as an expenditure the amount by which the fair market value exceeds the cost basis of any property sold) pursuant to any such investment, purchase, loan, advance, contribution or sale (other than those referred to in clauses (i) through (vi) of this Section 6.05(e) would have been permitted to be paid as a Restricted Payment pursuant to Section 6.05(b),

6. Except as modified hereby, the Equipment Trust Agreement remains in full force and effect.

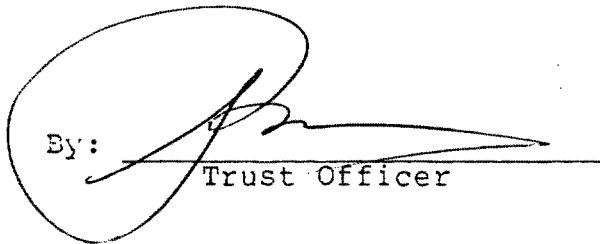
7. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single instrument.

8. The provisions of this Amendment and all rights and obligations of the parties hereunder shall be governed by the laws of the State of New York.

9. The Company shall, at its expense, cause this Amendment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303, as soon as possible.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the date first above written.

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK, as Trustee

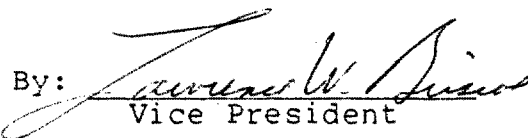
By:  Trust Officer

(Corporate Seal)

Attest:

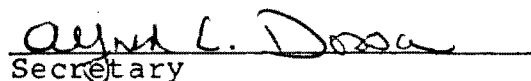

Assistant Secretary

BRAE CORPORATION

By:  Vice President

(Corporate Seal)

Attest:


Secretary

STATE OF _____)
COUNTY OF _____)

ss.:

On this 6th day of October, 1982, before me personally appeared E. W. Crean, to me personally known, who, being by me duly sworn, says that he is Trust Officer of MORGAN GUARANTY TRUST COMPANY OF NEW YORK, a NEW YORK corporation, that one of the seals affixed to the foregoing instrument is the seal of said corporation and that said instrument was on October 6, 1982 signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

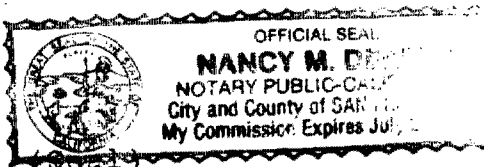
My Commission Expires: _____

David Robinson
Notary Public
Notary Public, State of New York
Qualified in Queens County
Certificate Filed in New York County
No. 41-4731138
Commission Expires March 30, 1984

STATE OF CALIFORNIA)
CITY AND COUNTY OF SAN FRANCISCO)

ss:

On this 7th day of September, 1982, before me personally appeared Lawrence A. Bussell, to me personally known, who, being by me duly sworn, says that he is Vice President of BRAE CORPORATION, a Delaware corporation, that one of the seals affixed to the foregoing instrument is the seal of said corporation and that said instrument was on September 7, 1982 signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Nancy M. Berry
Notary Public

My Commission Expires: July 30, 1984

OCT 13 1982 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

SIXTH AMENDMENT dated as of 10/6/82, 1982 to Equipment Trust Agreement dated as of June 1, 1979, as amended by an Amendment dated as of December 7, 1979, an Amendment Agreement Number Two dated as of December 16, 1979, a Third Amendment dated as of April 15, 1980, a Fourth Amendment dated as of June 1, 1980, and a Fifth Amendment dated as of September 10, 1980, and as supplemented by a Waiver dated as of January 10, 1980, a Waiver dated as of March 1, 1980 and a First Supplement dated as of July 15, 1980 (as so amended and supplemented, the "Equipment Trust Agreement") between MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as trustee (the "Trustee"), and BRAE CORPORATION (the "Company").

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(1) the sum of (a) \$13,000,000, plus (b) 50% (or minus 100% in the case of a deficit) of Consolidated Net Earnings for the period (taken as one

accounting period) commencing on April 1, 1979, and terminating on the date of the proposed Restricted Payment, less (2) the sum of (a) the aggregate amount of all dividends and other distributions paid or declared by the Company on any class of its stock after March 31, 1979, (b) the aggregate amount of all expenditures made pursuant to clause (vii) of Section 6.05(e) after March 31, 1979, and (c) the excess of the aggregate amount expended, directly or indirectly, after March 31, 1979 for the redemption, purchase or other acquisition of any shares of its stock and for the optional payment of principal of, and the optional retirement, redemption, purchase or other acquisition of, Subordinated Funded Debt, over the aggregate amount received as (x) the net cash proceeds of the shares of its stock after March 31, 1979 and/or (y) the net cash proceeds after March 31, 1979 upon the sale of any Debt security which has been converted into shares of its stock but only if such conversion occurs within five years after the issuance of such Debt security.

4. Section 6.05(b) is amended further by adding a new paragraph which shall be the last paragraph as follows:

The provisions of Section 6.05(b) shall not apply to any redemption, purchase or acquisition, direct or indirect, of any shares of any class of stock of the Company now or hereafter outstanding if within six months of such redemption, purchase or acquisition such shares are used in connection with the acquisition of a Restricted Subsidiary.

5. Section 6.05(e) is amended by deleting the word "and" from the end of clause (iv), inserting a new clause to be numbered (v) which reads as set forth below, inserting a new clause to be numbered (vi) which reads as set forth below, and replacing the existing clause (v) with clause (vii) which reads as set forth below:

(v) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that such investment, purchase, loan, advance, contribution or sale has been designated a Special Restricted Investment by the Company, and further provided that no such Special

Restricted Investment shall be made if on the date such proposed Special Restricted Investment is to be made the sum of all Special Restricted Investments (including the proposed Special Restricted Investment) shall exceed in the aggregate 50% of the sum of (i) current and deferred taxes on income and provision for taxes on unremitted foreign earnings which are included in Gross Revenues minus (ii) taxes paid or payable for the period (taken as one accounting period) commencing on April 1, 1979 and terminating on the date of the proposed Special Restricted Investment,

(vi) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that such investment, purchase, loan, advance, contribution or sale has been designated an Added Equity Restricted Investment by the Company and further provided that the aggregate of such Added Equity Restricted Investments shall not exceed the net cash proceeds received by the Company on or after June 1, 1982 from the sale of its stock and from the sale of any Debt security convertible into stock of the Company, but only to the extent that any such Debt has been converted into shares of the stock of the Company, and

(vii) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that the aggregate amount expended (including as an expenditure the amount by which the fair market value exceeds the cost basis of any property sold) pursuant to any such investment, purchase, loan, advance, contribution or sale (other than those referred to in clauses (i) through (vi) of this Section 6.05(e) would have been permitted to be paid as a Restricted Payment pursuant to Section 6.05(b),

6. Except as modified hereby, the Equipment Trust Agreement remains in full force and effect.

7. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single instrument.

8. The provisions of this Amendment and all rights and obligations of the parties hereunder shall be governed by the laws of the State of New York.

9. The Company shall, at its expense, cause this Amendment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303, as soon as possible.

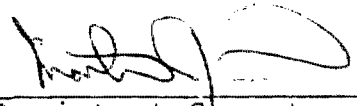
IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the date first above written.

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK, as Trustee

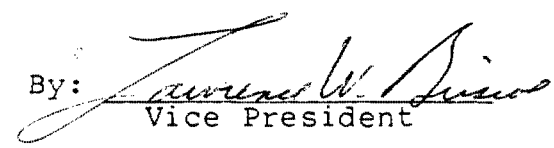
By: 
Trust Officer

(Corporate Seal)

Attest:



Assistant Secretary

BRAE CORPORATION

By: 
Vice President

(Corporate Seal)

Attest:


Secretary

STATE OF _____)
COUNTY OF _____)

SS.:

On this 6TH day of October, 1982, before me personally appeared W. H. Crean, to me personally known, who, being by me duly sworn, says that he is Trust Officer of MORGAN GUARANTY TRUST COMPANY OF NEW YORK, a NEW YORK corporation, that one of the seals affixed to the foregoing instrument is the seal of said corporation and that said instrument was on October 6, 1982 signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

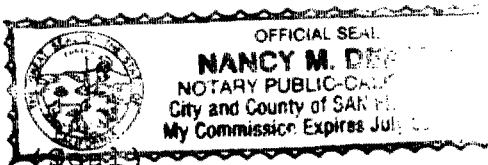
My Commission Expires: _____

Harold Robinson
Notary Public, State of New York
Qualified in Queens County
Certificate Filed in New York County
No. 41-4731138
Commission Expires March 30, 1984

STATE OF CALIFORNIA)
CITY AND COUNTY OF SAN FRANCISCO)

SS:

On this 7th day of September, 1982, before me personally appeared Lawrence A. Bussell to me personally known, who, being by me duly sworn, says that he is Vice President of BRAE CORPORATION, a Delaware corporation, that one of the seals affixed to the foregoing instrument is the seal of said corporation and that said instrument was on September 7, 1982 signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Nancy M. DePue
Notary Public

My Commission Expires: July 30, 1984